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FILED IN THE U.S. DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

Apr 17, 2020

SEAN F. MCAVOY, CLERK

## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

V.

WHEELER J. PAAVOLA,

Defendant.

NO: 2:11-CR-12-RMP-1

ORDER DENYING MOTION FOR COMPASSIONATE RELEASE WITH LEAVE TO RENEW

BEFORE THE COURT is Defendant's Motion to Modify Term of Imprisonment, Sentence Modification, Compassionate Release, pursuant to 18 U.S.C. § 3582(c)(1)(A). ECF No. 108. The Court has considered the motion, the record, and is fully informed.

Pursuant to 18 U.S.C. § 3582(c)(1)(A), this Court has the authority to reduce Defendant's term of imprisonment after certain, administrative remedies have been exhausted. Under that statute, there are restrictions on when the Court may act. The Court may act, "upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative ORDER DENYING MOTION FOR COMPASSIONATE RELEASE WITH LEAVE TO RENEW ~ 1

rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf . . . . " Additionally, if Defendant files a motion under 18 U.S.C. § 3582(c)(1)(A) with the Bureau of Prisons, and the Bureau of Prisons does not act upon his motion within thirty days of receiving it, then Defendant may request relief directly from this Court, without taking additional steps to exhaust his administrative remedies. *Id*.

Defendant does not state whether he has exhausted his administrative remedies or sought relief from the Bureau of Prisons, and if he did, whether thirty days have passed since he sought relief. Therefore, the Court has insufficient evidence before it to conclude that it has authority to hear the instant motion, at this time. Defendant is encouraged to read the First Step Act guidelines to address the characteristics that Congress intended the Court to consider, once the Court has authority to do so.

## Accordingly, IT IS HEREBY ORDERED:

1. Defendant's Motion to Modify Term of Imprisonment, Sentence

Modification, Compassionate Release, pursuant to 18 U.S.C. §

3582(c)(1)(A), ECF No. 180, is DENIED with leave to renew. The

Court grants Defendant leave to renew his motion to include the required information, such as whether he has sought relief from the Bureau of

Prisons or has exhausted all his administrative remedies.

2. If Defendant renews his motion, he must state whether he has exhausted his administrative remedies, and how he has done so. To the extent possible, Defendant shall include any documentation illustrating that he has exhausted his administrative remedies, or that the Bureau of Prisons has failed to act upon his request for compassionate release. Additionally, if Defendant renews his motion, he should include a short statement about his plan if he is released. In that statement, he should include where he plans to live if he is released and whether his family (daughter and mother) support his motion for compassionate release.

IT IS SO ORDERED. The District Court Clerk is directed to enter this Order and provide a copy to the Defendant.

**DATED** April 17, 2020.

s/Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
United States District Judge

ORDER DENYING MOTION FOR COMPASSIONATE RELEASE WITH LEAVE TO RENEW  $\sim 3\,$